

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEE E. HAGGERTY,

Plaintiff,

v.

JEFF LYNCH

Defendants.

No. 2:21-cv-01248-DJC-AC

ORDER

On April 28, 2025, Plaintiff Lee Haggerty filed a Motion for an Extension of Time and a Motion to Appoint Counsel. (Mot. (ECF No. 67).) Specifically, Plaintiff cited to his limited reading and writing abilities and explained that he lost access to his legal materials after the individual who possessed them was placed in administrative segregation. (*Id.* at 1.)<sup>1</sup>

Regarding Plaintiff's request for counsel, while the Court sympathizes with the challenges Plaintiff has identified, a person generally has no right to counsel in civil actions. See *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (citing *Storseth v.*

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<sup>1</sup> The Court appreciates efforts by Mr. Lodholz to secure law library access for the Plaintiff. (See ECF No. 68 at 2).

1 *Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981)). However, under “exceptional  
2 circumstances” the court may request counsel for indigent civil litigants pursuant to 28  
3 U.S.C. § 1915(e)(1). *Id.*; see 28 U.S.C. § 1915(e)(1). In making this determination,  
4 courts must consider whether (1) there is a likelihood of success on the merits; and (2)  
5 the prisoner is unable to articulate his claim in light of the complexity of the legal  
6 issues involved. *Cano v. Taylor*, 739 F.3d 1214, 1218 (9th Cir. 2014). Neither factor is  
7 dispositive; rather they must be considered cumulatively. *Id.* Circumstances most  
8 common to prisoners, such as lack of legal education and limited law library access,  
9 do not establish exceptional circumstances that would warrant a request for voluntary  
10 assistance of counsel. The fact that the *pro se* litigant would be better served with the  
11 assistance of counsel does not necessarily qualify the issues involved as complex. See  
12 *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *rev’d in part on other grounds*,  
13 154 F.3d 952, 954 n.1 (9th Cir. 1998) (acknowledging that any *pro se* litigant would be  
14 better served with the assistance of counsel). Considering these facts in light of the  
15 case now pending before the Court, the Court does not find this to present  
16 exceptional circumstances and will deny the request for counsel.

17 Turning to the request for an extension of time, the Court GRANTS Plaintiff  
18 additional time to submit his Final Pretrial Statement, and will set the deadline for **May**  
19 **27, 2025**, the date on which the Court had previously ordered Plaintiff to file his  
20 witness and exhibit lists. Defendants may file a written response 7 days after receiving  
21 Plaintiff’s statement, if they are unable to address those matters at the Final Status  
22 Conference. Plaintiff is cautioned, however, that if Plaintiff fails to comply with the  
23 Court’s prior order to submit witness and exhibit lists by **May 27, 2025**, the Court  
24 may consider imposing evidentiary sanctions in light of the prejudice the failure to  
25 timely identify witnesses and exhibits could cause Defendants. Evidentiary sanctions  
26 could include an order preventing Plaintiff from calling a witness or introducing an  
27 exhibit not identified by Defendants in their Final Pretrial Statement.

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Therefore, IT IS HEREBY ORDERED THAT:

1. Plaintiff's Motion to Appoint Counsel is DENIED.
2. Plaintiff's Motion for an extension of time is GRANTED. Plaintiff is ordered to file his Final Pretrial Statement on or by **May 27, 2025**.

Dated: May 5, 2025

/s/ Daniel J. Calabretta

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THE HONORABLE DANIEL J. CALABRETTA  
UNITED STATES DISTRICT JUDGE

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